

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-7671

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MILTON BACHMAN COHEN,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. J. Frederick Motz, District Judge. (CR-87-478-JFM)

Submitted: February 14, 2002

Decided: February 22, 2002

Before WIDENER, LUTTIG, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Milton Bachman Cohen, Appellant Pro Se. Rod J. Rosenstein, OFFICE OF THE UNITED STATES ATTORNEY, Greenbelt, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Milton B. Cohen seeks to appeal the district court's order denying his motion to correct his sentence pursuant to Fed. R. Crim. P. 35(b). We dismiss the appeal for lack of jurisdiction because Cohen's notice of appeal was not timely filed.

The defendant in a criminal case is accorded ten days after the entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(b)(1), unless the district court extends the appeal period under Fed. R. App. P. 4(b)(4). This appeal period is mandatory and jurisdictional. United States v. Raynor, 939 F.2d 191, 196 (4th Cir. 1991); United States v. Schuchardt, 685 F.2d 901, 902 (4th Cir. 1982).

The district court's order was entered on the docket on August 24, 2001. A fellow inmate of Cohen's submitted a notice of appeal that did not bear Cohen's signature on September 12, 2001. A copy of the notice of appeal signed by Cohen was filed on October 22, 2001.* Because Cohen failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We dispense with oral argument because the facts

* Although the failure to sign the notice of appeal is not jurisdictional, the first notice of appeal signed by the other inmate was not timely. Thus, the Supreme Court's decision in Becker v. Montgomery, 532 U.S. 757 (2001), does not apply.

and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED